



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 6028-99

13 December 1999

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you underwent a pre-enlistment physical examination on 1 December 1995, and completed a Standard Form 93, Report of Medical History, on that date. You disclosed a history of throat trouble (tonsillectomy), head injury resulting in a concussion and a brief loss of consciousness at age four, and an appendectomy. You specifically denied a history of asthma and shortness of breath, and declared that you had not suffered from any illnesses other than those disclosed by you in the form. You entered active duty in the Marine Corps on 8 July 1996. Shortly thereafter, you sought medical care for breathing difficulty, and ultimately disclosed that you had a pre-service history of extended treatment for asthma. You also disclosed that you had told recruiter about the condition when applying for enlistment, and obtained civilian medical clearance, but failed to report the condition to medical personnel who conducted the pre-enlistment physical examination, and determined that you were fit for enlistment. A diagnosis of asthma, existed prior to enlistment, was entered in your health record on 22 August 1996, and you were discharged by reason of fraudulent entry on 27 August 1996.

The Board did not accept your contention to the effect that you were forced to sign a statement in which you admitted that you had concealed a pre-service history of asthma, as it was unsubstantiated, and lacked credibility. It noted that irrespective of whether or not you actually suffer from asthma, reactive airway disease, or any other chronic pulmonary condition, if any, you were treated for breathing difficulties before you enlisted, you concealed that history from enlistment medical authorities, and upon your entry on active duty, you were unable to perform your duties because of breathing difficulties. Accordingly, the Board concluded that your discharge for fraudulent entry was proper, and it would not be in the interest of justice to remove the diagnosis of asthma from your record.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director